

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan Application Fees

Proposed Amendments: N.J.A.C. 7:50-1.6

Proposed Repeal: N.J.A.C. 7:50-1.6(f)

Authorized By:

_____/____/____
New Jersey Pinelands Commission,
John C. Stokes, Executive Director

Authority: N.J.S.A. 13:18A-6n

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-

A **public hearing** concerning the proposal will be held on:

Thursday, February 15, 2006 at 7:00 p.m.
Richard J. Sullivan Center
15 C Springfield Road
New Lisbon, New Jersey

Submit written comments by close of business on March 4, 2006 by regular mail, facsimile or e-mail to:

Stacey P. Roth, Esq.
Senior Counselor
Pinelands Commission
P.O. Box 7
New Lisbon, NJ 08064
Facsimile: (609) 894-7330
E-mail: legal@njpines.state.nj.us

The name and mailing address of the commenter must be submitted with all public comments.

The agency proposal follows:

SUMMARY

The New Jersey Pinelands Commission (Commission) is proposing to amend Subchapter 1, General Provisions, of the Pinelands Comprehensive Management Plan (CMP). The Commission adopted its first fee schedule in April 2004 (see 36 N.J.R. 1804(a)). At the time of adoption, there were a number of potential revisions to the rules offered by the public, such as stepping the non-residential fees and imposing a fee cap, for which the Commission required additional data. As a result, the Commission agreed to monitor the implementation of its fee schedule and to amend the rules in the future if warranted. Based on the approximately 1 ½ years of experience with implementing its fee schedule, as discussed more fully below, the Commission has decided to amend various fee provisions at this time. As the Commission has provided a 60-day comment period on this notice of proposal, this proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently in June of 2005, through a set of amendments which redesignated the Oyster and Waretown Creek watershed from a Pinelands Rural Development Area to a Pinelands Forest Area, adjusted management area boundaries to reflect a settlement agreement involving lands in Manchester Township, updated the threatened and endangered plant list contained in the CMP and established a new pilot program for consumer electronics recycling facilities (see 37 N.J.R. 2013(b)).

On July 1, 2003, P.L. 2003, c. 177 was signed into law. Section 30 of this law authorized the Commission to establish fees by regulation adopted pursuant to the Administrative Procedures Act, P.L. 1968, c. 410 (N.J.S.A. 52:14B-1 et seq.) for services performed relating to development review applications filed with the Commission as required by the Pinelands CMP. On April 5, 2004, pursuant to this authority, rules adopted by the Pinelands Commission, establishing an application fee schedule, took effect.

A State-run program may derive its funding from legislative appropriations, by directly charging those seeking a service through application fees, or through a combination of both. The fees collected for land use applications such as those that are the subject of these amendments, affect those entities that develop property and those who purchase property. Property with development approvals is more costly than property sold contingent upon receiving such approvals, because the property owner can recover the costs of obtaining an approval directly from the purchaser who will have the benefit of using the property. Funding through legislative appropriations is borne by all taxpayers, while application fees are borne by the developer, property owner or beneficiaries of the development.

Prior to April 2004, the Pinelands Commission did not charge fees for its services. Rather, the Commission relied on a combination of legislative appropriations, Federal grant money and other revenues to fund its operations, including the review of development applications. As of April 2004, the Pinelands Commission has charged application fees as a means to cover a portion of the costs associated with the review of development applications and associated services that support the development application process and the related needs of the regulated community. The Commission receives approximately

1200 to 1500 development applications annually. In terms of direct personnel costs alone (not including benefits, facility costs, equipment costs, etc.) in Fiscal Year 2005, the Commission expended approximately \$960,000 on the review of these applications.

During the notice and comment period for the Commission's initial fee schedule, the Commission received comments suggesting that it revise its fee schedule on adoption to: 1) step the application fees for non-residential development applications, 2) decrease the proposed fees for non-residential development applications in order to bring the residential and commercial fees into accord, and 3) impose a cap on application fees. The Commission, noting the need for additional data to assess the need for the suggested revisions, decided to adopt its fee schedule as proposed. However, the Commission committed to monitor its fee structure and to propose amendments in the future, if warranted. After approximately 1 ½ years of experience in implementing its fee schedule, the Commission has decided to amend various provisions of its fee schedule.

The fee for residential development applications is set forth at N.J.A.C. 7:50-1.6(b). N.J.A.C. 7:50-1.6(b)1 currently provides that there shall be no fee for a residential development consisting of only one dwelling unit. The intent of this provision was to exempt the development of a single family dwelling by an individual from the Commission's application fee provisions. The Commission, therefore, is proposing to amend this provision to make clear that a residential development application for one dwelling unit on an existing lot of record as of April 5, 2004 will not require submission of an application fee only in those cases where the applicant has not submitted another application for residential development involving a single dwelling unit in the previous twelve month period. In addition, this provision will be recodified as N.J.A.C. 7:50-1.6(b)1i. Consistent with its policy regarding application fees for single family dwellings by individuals, the Commission is also proposing two additional exemptions from its residential development application fees. New N.J.A.C. 7:50-1.6(b)ii and iii will exempt a two lot subdivision which results in the creation of only one vacant lot and proposes the development of only one new dwelling unit and the demolition and reconstruction of one residential dwelling unit, respectively, from residential application fees.

The Commission is also proposing to amend the formula, at N.J.A.C. 7:50-1.6(b)2, by which its residential application fees are calculated to increase the fee by \$25 per dwelling unit or lot and to increase the number of units in each tier. Consequently, the residential application fees would increase to \$125.00 per dwelling unit or lot for the first 50 units/lots; \$100.00 per dwelling unit or lot for units/lots 51 through 150 and \$75.00 per dwelling unit or lot for all units/lots in excess of 150. N.J.A.C. 7:50-1.6(b) is also being amended to clarify that in calculating the application fee for a residential development the number of proposed dwelling units or lots shall include all lots to be utilized for stormwater facilities, open space, recreational facilities or other accessory elements of a residential development. Such accessory uses would include, for example, a small clubhouse for use by the residents of the development, but not development of a golf course, which would be subject to the fee provisions of N.J.A.C. 7:50-1.6(c)3.

The Commission is also proposing to make a number of amendments to the formula used to calculate the application fee for commercial, institutional, industrial or other non-residential development applications at N.J.A.C. 7:50-1.6(c). This fee is based on a percentage of construction costs. The current provision defines construction costs to include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs. This language has resulted in some confusion amongst the regulated community. Questions have arisen as to types of costs that should be included when calculating the applicable fee. Consequently, the Commission is proposing to delete this language and to amend the provision to make clear that when calculating the applicable commercial, institutional, industrial or other non-residential fee typical construction costs should be used. A definition of term “typical construction costs” is also being proposed and will include a representative list of the types of costs that would not be considered “typical construction cost”.

Based on the experience that it has gained in the last 1 ½ years implementing its application fee schedule, the Commission is proposing to adjust the formula used to calculate commercial, institutional, industrial or other non-residential fees to bring these fees into better accord with its residential application fees. N.J.A.C. 7:50-1.6(c) currently assesses a fee of \$200 or 1% of construction costs whichever is greater. The proposed amendments would tier this fee formula in a manner similar to the residential fee formula. The tiers would start at 1% of construction costs for the first \$500,000 of total construction costs; then decrease to ¾% of construction costs for the portion of construction costs between \$500,000 and \$1 million and then decrease to ½% of construction costs for the portion of construction costs in excess of \$1 million. The applicable commercial, institutional, industrial or other non-residential fee would be the sum of the various tiers.

N.J.A.C. 7:50-1.6(c) has also been revised to eliminate the option of submitting project financing documents as a means of documenting expected construction costs. To date, no applicant has availed himself or herself of this option. Consequently, the language has become superfluous. In addition, there have been a few instances in the last 1 ½ years where an applicant has submitted an application for a non-residential development but has not engaged either an architect or engineer for the project. These projects are generally small. Under the current provision, the applicant would have to retain either an architect or engineer in order to submit the requisite statement of expected construction costs. The Commission does not believe that it is necessary for an applicant to retain professional services solely for the purposes of preparing the cost statement. Consequently, the Commission is proposing to amend this provision to permit the submission of a sworn statement of a qualified individual other than a licensed engineer or licensed architect as to the expected construction costs in those instances where an architect or engineer has not been retained for the project.

The Commission is also proposing to amend the application fee for linear developments. Based on the Commission’s experience over the past 1 ½ years, the current fee, at N.J.A.C. 7:50-1.6(c)4, of \$100 per acre to be disturbed as part of a linear development project is too low. The review of a linear development application is not limited to the area of

disturbance. Rather, the entire right of way of the project must be reviewed to determine the project's consistency with the minimum requirements of the Pinelands CMP. In addition, linear development projects frequently include disturbances of lands located outside of the formal right-of-way. Consequently, the Commission is amending this provision to assess a fee of \$100 per acre for all lands included in the right-of-way of a proposed linear development project plus \$100 per acre of land located outside of the right-of-way that will be disturbed as a result of the proposed project.

N.J.A.C. 7:50-1.6(c)6 is being amended to codify existing Commission practice of charging \$200 for a development application for a home occupation as defined at N.J.A.C. 7:50-2.11. N.J.A.C. 7:50-1.6(c)7 is being amended to clarify that for an application for a subdivision or resubdivision only, the applicable fee shall be calculated in accordance with the residential fee formula at N.J.A.C. 7:50-1.6(b)2 based on the total number of lots that will exist following the subdivision or resubdivision.

At new N.J.A.C. 7:50-1.6(e), the Commission is proposing an application fee cap of \$50,000 for residential; commercial, institutional, industrial or other non-residential; or mixed residential and non-residential development applications. The Commission is also adding a new provision at N.J.A.C. 7:50-1.6(f). This provision would require the submission of a new application fee in those cases where a prior development application has been submitted to the Commission for its review, a certificate of filing or a certificate of completeness has not been issued, and either no direct activity in furtherance of the Commission's application process has occurred for a period of two years or there has been a significant change in the proposed development that is the subject of the application. The Commission is also proposing a new application fee for development applications submitted by qualified tax-exempt religious associations or corporations or qualified tax exempt non-profit organizations. New N.J.A.C. 7:50-1.6(g) would establish an application fee for applications submitted by such organizations of \$500 or the amount calculated in accordance with the Commission's fee schedule, whichever is less. In order to qualify under this provision, the applicant will have to demonstrate that it constitutes a qualified tax-exempt religious association or organization or qualified tax exempt non-profit organization by submitting a copy of its tax exempt certificate. Furthermore, the existing provisions at N.J.A.C. 7:50-1.6(e), (g), (h) and (i) are being recodified at N.J.A.C. 7:50-1.6(h) through (j) and (l), respectively.

Existing N.J.A.C. 7:50-1.6(f), which assesses a \$100 application fee for the review and processing of a request for a letter certifying that a proposed activity is not considered development in accordance with N.J.A.C. 7:50-4.1, is being proposed to be repealed. In the past 1 ½ years, the Commission has had few requests submitted in accordance with this provision. Consequently, this provision has become superfluous.

The Commission is proposing at N.J.A.C. 7:50-1.6(k) to add a fee for the review of any study or survey prior to the submission of a development application. This fee would be 1/3 of the estimated application fee calculated in accordance with the Commission's fee schedule. Currently, the Commission's fee schedule does not permit an applicant to submit survey protocols or results in advance of submitting a formal application. In accordance

with N.J.A.C. 7:50-1.6(a) an application shall not be reviewed unless all applicable fees have been paid. The scope of a proposed development, however, may be impacted by, for example, the results of a threatened or endangered species or cultural resource survey. Consequently, applicants have sought to have the Commission review these surveys in advance of submitting an application. The Commission staff expends a considerable amount of time reviewing survey protocols and results. The proposed new fee at N.J.A.C. 7:50-1.6(k) will accommodate the needs of applicants and, at the same time, partially reimburse the Commission for its staff's review of such surveys. Given that the review of survey protocols and results are a part of the usual review of a development application, the Commission is proposing to deduct any fee submitted in accordance with new N.J.A.C. 7:50-1.6(k) from the application fee due at the time of submission of the application for the proposed development for which the study or survey was prepared or conducted.

Lastly, the Commission is proposing amendments to the escrow provision recodified at N.J.A.C. 7:50-1.6(l). The proposed amendments would authorize the Executive Director, notwithstanding any other provision of the fee schedule, to request an escrow payment not only when he determines that a development application involves complex issues, necessitating specialized expertise that requires the retention of consultants to assist in the review of such application, as is presently the case, but also where such development application will require considerable staff review. Likewise, existing N.J.A.C. 7:50-1.6(l)2 has been amended to provide that monies held in an escrow account may also be used by the Commission not only to reimburse any costs incurred as a result of retaining any consultants but also for the considerable amount of staff time required to review the application. N.J.A.C. 7:50-1.6(l) would amend the process by which an applicant could object to the amount of escrow funds required by setting forth the information that must be submitted to contest the amount of escrow funds required because of the amount of staff time required to review the application.

SOCIAL IMPACT

The proposed amendments revising various provisions of the Commission's application fee schedule are expected to have a positive social impact for New Jersey's taxpayers because these fees will continue to reduce the need for higher taxes to support the legislatively mandated activities of the Commission. In addition, society as a whole will continue to benefit from the protection of the unique resources of the Pinelands, the nation's first national reserve. The Pinelands Area is comprised of pine-oak forests, cedar swamps, extensive surface and groundwater resources of high quality, threatened and endangered species and other unique natural, ecological, agricultural, scenic, cultural and recreational resources. The proposed amendments to the Commission's application fee schedule will continue to ensure that the Commission has adequate resources to undertake its statutorily mandated review of development applications to ensure that such projects adhere to the land use and environmental requirements of the Pinelands CMP. Applicants submitting residential development applications may experience a negative social impact to the extent that the proposed amendments may increase the review costs for such projects. Any negative impacts, however, are minor in comparison to the positive impacts that will result from the continued protection of the resources of the Pinelands Area.

ECONOMIC IMPACT

The proposed amendments revising various provisions of the Commission's application fee schedule are not expected to have a significant economic impact on those entities that submit development applications to the Commission. As discussed above, the Commission's fee schedule, including the proposed amendments, is designed to recapture a portion of the costs that the Commission expends annually in the review of such applications. As discussed in the Summary, the Commission receives approximately 1,200 to 1,500 applications annually. The Commission expends approximately \$960,000, in direct personnel costs alone, on the review of development applications. The proposed amendments are not expected to significantly change the revenue generated by the Commission's fee schedule, because the proposed amendments will result in the reduction of sum fees and the increase in others. The proposed amendments may have a positive impact on applicants submitting non-residential development applications to the extent that the amendments result in a reduction in the applicable application fee. Likewise, the proposed fee cap will have a positive impact on applicants of large development applications that do not involve complex issues. The proposed amendments will also have positive impact on qualified tax-exempt religious organizations/corporations and non-profit organizations who submit development applications, because, in most instances, the application fee for applications submitted by these entities will be capped at \$500. Applicants submitting applications for linear development may experience a negative impact due to the proposed increase in application fees for such development. The proposed amendments may also have a negative impact on applicants submitting residential development applications to the extent that the proposed amendments result in an increase in the applicable fee. However, the number of development applications submitted to the Commission since it commenced charging application fees in April 2004 has not decreased. Consequently, it is safe to assume that despite the Commission's application fees, there is a substantial economic benefit accrued to the applicant to pursue its proposed development.

ENVIRONMENTAL IMPACT

The Commission does not anticipate that the proposed amendments to the Commission's application fee schedule will have any environmental impact. The proposed amendments do not modify the land use and environmental requirements of the CMP in any way. Applications for development will still need to demonstrate that they satisfy the land use and environmental standards of the Plan, as is the case now.

FEDERAL STANDARDS STATEMENT

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United State Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The proposed amendments amend the Commission's application fee schedule. These amendments do not amend any of the provisions of the CMP that implement the Federal goals of the CMP. As a result, the Commission has concluded that these amendments do not exceed any Federal standards or requirements.

There are no other Federal requirements that apply to the subject matter of these amendments.

JOBS IMPACT

The proposed amendments are not expected to have jobs impacts, because the amendments modify the Commission's application fee schedule. There are no changes to the procedural requirements of the Pinelands CMP and no greater development review requirements that would result in the loss or gain of jobs relating to the construction or environmental consulting industries. The proposed amendments are not expected to have any impact on the number of jobs in the State.

AGRICULTURE INDUSTRY IMPACT

In accordance with the requirements of N.J.S.A.52:14B-4, the Commission has evaluated this rulemaking to determine the nature and extent of any impacts that the proposed amendments may have on the agriculture industry. The proposed amendments make minor changes to the Commission's fee schedule. To the extent that members of the agriculture industry located within the Pinelands intend to engage in activities that will necessitate submission of a development application subject to a residential or non-residential fee (for example, agricultural employee housing, agricultural commercial establishments, agricultural processing facilities, etc.) they may be impacted to the extent that the proposed amendments increase or decrease the associated application fee. Given that agricultural activities, for the most part, do not require the submission of development applications, the Commission does not believe that the proposed amendments will have an impact on the agriculture industry.

REGULATORY FLEXIBILITY ANALYSIS

As required by the New Jersey Regulatory Flexibility Act, N.J.S.A. 51:14B-16 et seq., the Commission has evaluated the reporting, record keeping, and other compliance requirements that the proposed amendments would impose upon small businesses. The Regulatory Flexibility Act defines the term "small business" as "any business" which is a resident of this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 full-time employees." N.J.S.A. 52:14B-17.

The proposed amendments revise the Commission's application fee schedule. The proposed amendments will not impose any additional reporting or record keeping requirements on small business, nor will the amendments require small businesses to

employ professional services. As discussed in the Summary above, the proposed amendments may have minimal impact on developers, contractors and property owners involved or interested in development projects within the Pinelands. Because most businesses in the Pinelands may be characterized as small in size and number of employees, at least in comparison to the remainder of New Jersey, the proposed amendments may have a minimal impact on “small business” as defined by the Regulatory Flexibility Act. However, because the Commission’s fee schedule is based on the type of development application submitted, the proposed amendments are expected to have the same impact on small businesses as on any other entity. The proposed amendment to N.J.A.C. 7:50-1.6(c) authorizing the submission of construction cost estimates by other qualified individuals, in those cases where an architect or engineer has not been retained for a project, should benefit small projects which are frequently proposed by small businesses. Given that the resources of the Pinelands are important to all State citizens, and the proposed amendments are necessary to provide revenue for appropriate review and protection of these resources, no lesser requirements for small businesses are required.

SMART GROWTH IMPACT

Executive Order No. 4(2002) requires State agencies that adopt, amend or repeal any rule adopted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)) to describe the impact of the proposed rules on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Commission had evaluated the proposed amendments that are the subject of this rulemaking effort to determine the nature and extent of their impact on smart growth and implementation of the State Plan.

The Pinelands Protection Act (the Act), N.J.S.A. 13:18A-1 et seq., and its implementing regulations, the Comprehensive Management Plan, could be considered one of the first smart growth planning initiative in the State of New Jersey. The Act was passed to address random and uncoordinated development and construction that was posing an immediate threat to the resources of the Pinelands. (See N.J.S.A. 13:18A-2). As a result of these development pressures, the Legislature found that it was necessary to impose certain limitations, as provided in the Act, upon local approval of development applications within the Pinelands. The regulations and standards set forth in the CMP implement the Act and are designed to promote orderly development of the Pinelands so as to preserve and protect the significant and unique natural, ecological, cultural, and recreational resources of the Pinelands.

In light of the above, both the Act and the CMP are consistent with the law and policy of New Jersey to promote smart growth and to reduce the negative effects of sprawl as described in Executive Order No. 4 (2002). Both the Act and the CMP discourage incompatible development of Pinelands resources, which are important not only to the citizens of the State of New Jersey, but also the citizens of this nation. The proposed amendments to the Commission’s application fee schedule are consistent with smart growth policy because these fees are necessary to support the regulatory program that ensures that development that is conducted within the Pinelands is closely scrutinized to

ensure consistency with the standards of the CMP and, to the extent that it is not, that it is prohibited. Therefore, the proposed amendments comport with the goals of smart growth and implementation of the State Plan as described in Executive Order No. 4.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

N.J.A.C. 7:50-1.6 Fees

(a) All applications required or permitted by any provision of this Plan other than applications filed by a public agency, shall be accompanied by a nonrefundable application fee calculated according to the fee schedule set forth in (b) through ([i]) below. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid.

(b) The **application** fee for a residential development application submitted pursuant to N.J.A.C. 7:50-4.14 or 4.33 shall be calculated as follows:

1. There shall be no fee for a residential development consisting of only:

i. [o] One dwelling unit **on an existing lot of record as of April 5, 2004, provided that the applicant has not submitted another application for residential development involving a single dwelling unit within the previous twelve month period;**

ii. **A two lot subdivision which results in the creation of only one vacant lot and proposes the development of only one new dwelling unit;**

or

iii. **The demolition and reconstruction of one residential dwelling unit;**

2. The fee for all other residential developments shall be calculated based on the number of proposed dwelling units or lots, **including those to be utilized for stormwater facilities, open space, recreational facilities or other accessory elements of a residential development,** according to the following:

- i. \$~~125~~[00].00 per dwelling unit or lot for the first [25] **50** units or lots;
- ii. \$[75]~~100~~.00 per dwelling unit or lot for units/lots [26] **51** through ~~150~~[0];
- and
- iii. \$~~75~~[0].00 per dwelling unit or lot for all units/lots in excess of ~~150~~[0].

(c) The **application** fee for a commercial, institutional, industrial or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14 or 4.33 shall be \$200.00 or **the amount calculated in accordance with the following based on** [one percent] **typical** construction costs, [, which shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs,] whichever is greater, except as provided in (c)1 through 7 [below]:

- 1. 1% of construction costs for the first \$500,000 of the total construction cost;**
- 2. ¾% of construction costs for the portion of the construction costs between \$500,000 and \$1 million; and**
- 3. ½% of construction costs for the portion of the construction costs in excess of \$1 million.**

Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features . For fees calculated based on [one] **the** percentage of construction costs, such costs shall be supported by the sworn statement of a licensed architect, [or] **licensed** engineer, **or other qualified individual, if an architect or engineer has not been retained for the project,** as to the expected construction costs [or project financing documents submitted to a lending institution which reflect the anticipated cost].

1. For an off-road vehicle event conducted in accordance with N.J.A.C. 7:50-6.143(a)4, the fee shall be \$5.00 per mile of the route proposed or a minimum of \$250.00;
2. For a forestry application or renewal application, submitted pursuant to N.J.A.C. 7:50-6.43(b) or (c), for forestry activities involving 10 or more acres, the fee shall be \$5.00 per acre that is subject to the forestry activities;
3. For the development of a golf course, the fee shall be \$100.00 per acre devoted to the golf course facility, including, but not limited to, the golf course and associated forested areas, club house, putting greens, driving range, parking areas, locker rooms and accessory buildings, such as rest rooms, maintenance buildings, and other recreational areas depicted on the site plan submitted as part of the application. All areas associated with the planning, construction, operation or maintenance of a golf course facility, including those areas not directly associated with golfing or a recreational

activity, must be included in the acreage used to calculate the applicable application fee for the development of a golf course;

4. For a proposed linear development, the **application** fee shall be \$100.00 per acre **of all land included in the right of way of the proposed linear development project plus \$100.00 per acre located outside of the right of way that will** [to] be disturbed as part of a linear development project or a minimum of \$250.00. "Linear development" means land uses such as roads, railroads, sewerage and stormwater management pipes, gas and water pipelines, electric, telephone and other transmission or distribution lines, which have the basic function of connecting two points, the rights-of-way therefor, and any accessory structures or uses directly associated therewith. Linear development shall not include residential, commercial, office or industrial buildings, improvements within a development such as utility lines or pipes, or internal circulation roads;
5. For a resource extraction permit application or permit renewal application, the **application** fee shall be \$500.00 plus \$10.00 per acre to be mined within each permit period;
6. For a change of use with no additional development **or home occupations**, the **application** fee shall be \$200.00; and
7. For an application for a subdivision **or resubdivision** only, with[**out**] **no other** development, the **application** fee shall be calculated according to the formula in (b)2 above, based on the **total** number of lots [created] **which**

will exist following the subdivision or resubdivision regardless of the number of lots that existed prior to the subdivision.

(d) The **application** fee for mixed residential and non-residential development shall be the sum of the residential and non-residential development fees as calculated according to the relevant fee schedules in (b) and (c) above.

(e) **The application fee required at the time of submission of a development application in accordance with (a) through (d) above shall not exceed \$50,000.**

(f) **An application fee in accordance with (a) through (d) above shall be submitted for an application where a certificate of filing or a certificate of completeness has not been issued pursuant to N.J.A.C. 7:50-4.34 or 4.15 and either no direct activity in furtherance of the Commission's application process has occurred for a period of two years or there has been a significant or material change in the proposed development that is the subject of the application.**

(g) **The application fee for a development application submitted by a qualified tax-exempt religious association or corporation or a qualified tax exempt non-profit organization shall be \$500 or the amount calculated in accordance with (a) through (d) above, whichever is less. For purposes of this provision, the term "qualified tax-exempt religious association or corporation" means a religious association or corporation which is exempt from federal income taxation under Sections 501(c)(3) or (d) of the Internal Revenue Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Sections 501(c)(3) and (d). For purposes of this provision, the term "qualified tax-exempt non-profit organization" means a non-profit organization which is exempt**

**from federal income taxation under Sections 501(c)(3) of the Internal Revenue Code,
Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Sections 501(c)(3).**

(h) For a Letter of Interpretation or Amended Letter of Interpretation pursuant to N.J.A.C. 7:50-4, Part VI, which does not involve the allocation of Pinelands Development Credits, the **application** fee shall be \$200.00.

(f)i) [The application fee for the review and processing of a request for a letter certifying that a proposed activity is not considered development pursuant to N.J.A.C. 7:50-4.1(a) shall be \$100.00.

(g) The application fee for the review and processing of a request for a letter stating information that is available in a municipal land use ordinance or stating other information readily available to the public from a source other than the Pinelands Commission shall be \$100.00.

(h)i) The **application** fee for an Amended Certificate of Filing shall be \$150.00 or 10 percent of the original permit fee, whichever is greater, with a maximum fee of \$2,000. If a request for an Amended Certificate of Filing is submitted more than five years following the issuance of the original Certificate of Filing, the fee shall be calculated as if a new application had been submitted.

(k) **The fee for the review of any study or survey prior to the submission of a development application pursuant to N.J.A.C. 7:50-4.14 or 4.33, including but not limited to any threatened or endangered species protocol, threatened or endangered species protocol results or a cultural resource survey, shall be 1/3 of the estimated application fee calculated in accordance with (b) through (d) above. Any fee submitted in accordance with this provision shall be deducted from the application fee**

due at the time of submission of the application for the proposed development for which the study or survey was prepared or conducted.

([i]) **Notwithstanding any other provision of this section, [I]if** the Executive Director determines that a development application, excluding an application for a minor residential development, involves complex issues which, **either,** because of the need for specialized expertise, necessitates the retention of consultants to assist in the review of such application, **or will require considerable staff review:**

1. The Executive Director shall notify the applicant of such determination and the escrow amount to be submitted;
2. Monies submitted pursuant to (i)1 above shall be held in an escrow account and shall be used by the Commission to reimburse any costs it incurs **either** as a result of retaining any consultants for that application **or for the considerable amount of staff time required to review such application;**
3. Should the funds held in escrow be insufficient to defray [the] **such** costs [of any consultants], the Executive Director will provide the applicant with a statement of the account and will request from the applicant the additional amount estimated to be required for the escrow account;
4. At the time that final municipal approval takes effect pursuant to N.J.A.C. 7:50-4, Part III, the Executive Director shall provide a statement of the account to the applicant and any funds remaining in the escrow account shall be returned to the applicant;
5. No additional review of the application will occur until the escrow amount requested pursuant to (i)1 or 3 has been submitted;

6. An applicant who objects to the escrow amount requested pursuant to (i)1 or 3 above, shall notify the Executive Director, in writing, within 15 days of receipt of the Executive Director's determination, of such objection [and]

Depending upon the basis for the escrow amount, the applicant shall

submit [shall include] with this notification **either** :

(a) An estimate from a qualified professional, having the requisite knowledge and expertise required to address the issues raised by the application, to support the applicant's estimation of the appropriate amount to be assessed; or

(b) An estimate of the number of hours the applicant believes are required to complete a review of the submitted application and the rates and qualifications of professionals with the knowledge and expertise required to review such application;

and

7. The Executive Director shall review the applicant's submission and notify the applicant within 10 days thereof, of the amount to be provided.